

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

IN RE: NEW ENGLAND COMPOUNDING)
PHARMACY, INC. PRODUCTS LIABILITY)
LITIGATION)

This Document Relates to:)

MDL No. 1:13-md-2419-RWZ)

1:14-cv-14542-RWZ: *Gaskins v. Insight Health Corp., et al.*)

**INSIGHT HEALTH CORP.'S ANSWER TO AMENDED PETITION FOR FINAL
APPROVAL OF DISTRIBUTION OF WRONGFUL DEATH SETTLEMENT
PROCEEDS PURSUANT TO VA. CODE § 8.01-55**

Respondent, Insight Health Corp. (“Respondent”), by counsel, responds to the Amended Petition for Final Approval of Distribution of Wrongful Death Settlement Proceeds Pursuant to Va. Code § 8.01-55 (March 28, 2017) (D.E.3341) (“Amended Petition”), as follows:

1. The Parties entered a “Settlement and Release Agreement” (“Agreement”) on February 12, 2015, which incorporated “First Amended Insight Claims Resolution Facility Procedures” (“Procedures”).

2. By order dated July 9, 2015, in the above-styled case, this Court approved the Agreement and the Procedures, and found the resolution of this wrongful death claim and the allocation process in the Procedures governing this claim to be fair and reasonable under the circumstances of the decedent’s death and in the best interests of the decedent’s estate and the statutory beneficiaries. *See* Order (July 9, 2015) (D.E. 2104) (approving settlement in *Gaskins v. Insight Health Corp., et al.* (1:13-MD-2419-RWZ)).

3. The Court’s Order of July 9, 2015, further instructed the Parties to present a “Future Distribution Order” to the Court for consideration before any distribution could be made to the decedent’s statutory beneficiaries from their respective shares of the gross amount

attributed to them under the Procedures. *Id.* at 4. The Amended Petition now before the Court is Petitioners' request for entry of the Future Distribution Order in this case as directed by the Court through its order of July 9, 2015.

4. On January 7, 2016, the Parties filed a Joint Motion to Confirm Satisfaction of Conditions to Global Settlement Agreement of Virginia Cases (Jan. 7, 2016) (D.E. 2562). The Court entered an Order on the Parties' Joint Motion to Confirm Satisfaction of Conditions to Global Settlement finding that the terms and conditions set forth in the Agreement had been satisfied. *See* D.E. 2583 (Jan. 13, 2016) (noting endorsement and entry of order granting Motion for Order (D.E. 2562)).

5. Petitioner, Larry D. Gaskins, filed his Amended Petition on March 28, 2017. Significantly, Petitioner states that:

The only known lien associated with settlement proceeds is the following:

a. Medicare \$4,264.87.

Pet., ¶ 6, and CMS letter dated March 23, 2017, attached thereto as Exhibit E.

6. In reliance on Petitioner's representations in the Amended Petition, including that the \$4,264.87 Medicare lien is the only known lien on the settlement proceeds, Respondent does not oppose the Amended Petition or object to Petitioner's request that the Court approve the proposed distributions. Respondent joins in Petitioner's request that the Court dismiss this action with prejudice.

7. Respondent incorporates by reference Insight Health Corp.'s Answer to Petition for Final Approval of Compromise Settlement of Virginia Wrongful Death Claim Pursuant to Va. Code § 8.01-55 (July 3, 2015) (D.E. 2050), which Insight filed in response to the initial

Petition for Approval of Compromise Settlement of Virginia Wrongful Death Claim Pursuant to Va. Code § 8.01-55 (June 30, 2015) (D.E. 2028).

WHEREFORE, Respondent, Insight Health Corp., by counsel, respectfully requests that the Court enter an order approving the Amended Petition, granting the proposed distributions therein and dismissing this case with prejudice.

Respectfully Submitted

Date: March 28, 2017

INSIGHT HEALTH CORP.

By: /s/ Stephen D. Busch
Stephen D. Busch (*pro hac vice*)
Christopher E. Tribble (*pro hac vice*)
MCGUIREWOODS LLP
Gateway Plaza
800 East Canal Street
Richmond, Virginia 23219-3916
T: (804) 775-1000
F: (804) 775-1061
sbusch@mcguirewoods.com
ctribble@mcguirewoods.com

*Counsel for Defendants Insight
Health Corp.*

CERTIFICATE OF SERVICE

I certify that, on March 28, 2017, this document was filed through the CM/ECF system and will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF).

/s/ Stephen D. Busch
Stephen D. Busch

88355249_1